

AMENDED IN SENATE AUGUST 18, 2010

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JUNE 28, 2010

AMENDED IN SENATE JUNE 15, 2010

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2092

Introduced by Assembly Member Huffman

February 18, 2010

An act to add Sections 85053.5, 85215, and 85216 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2092, as amended, Huffman. Delta Plan: financing.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council as an independent agency of the state. The council is required, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Sacramento-San Joaquin Delta (Delta Plan), meeting specified requirements.

This bill would require the council to develop a long-term finance plan to pay for the costs of implementing the Delta Plan by January 1, 2013. The bill would prohibit the council from adopting new fees for these purposes unless authorized by statute. The bill would authorize the council, before adopting and collecting long-term revenue sources,

to seek to obtain early funding contributions from entities that may benefit from implementation of the Delta Plan and to track those contributions to provide credit against future funding requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Sacramento-San Joaquin Delta is a critically important
4 natural resource for California and the nation and serves
5 Californians as both the most valuable estuary on the west coast
6 of North America and the hub of the California water system.

7 (b) The Sacramento-San Joaquin Delta watershed and water
8 infrastructure are in crisis.

9 (c) In 2009, the Legislature and Governor adopted a
10 comprehensive water package that included new policies and
11 programs to address the crisis.

12 (d) Senate Bill 1 of the Seventh Extraordinary Session adopted
13 the Sacramento-San Joaquin Delta Reform Act of 2009, which
14 created the Delta Stewardship Council and directed the council to
15 develop a comprehensive Delta Plan to address the coequal goals
16 of providing a more reliable water supply for California and
17 protecting, restoring, and enhancing the Delta ecosystem. Senate
18 Bill 1 also stated that the coequal goals shall be achieved in a
19 manner that protects and enhances the unique cultural, recreational,
20 natural resource, and agricultural values of the Delta as an evolving
21 place.

22 (e) Long-term funding is needed to support the implementation
23 of the Delta Plan.

24 (f) A finance plan for implementing the Delta Plan should
25 recognize that public and private interests should contribute in
26 proportion to the benefits received or negative impacts caused.

27 SEC. 2. Section 85053.5 is added to the Water Code, to read:

28 85053.5. "Beneficiary pays principle" means the allocation of
29 costs to public or private entities in approximate proportion to
30 benefits received from implementation of measures in the Delta
31 Plan and in approximate proportion to negative impacts caused to

1 the Delta and the Delta watershed that the Delta Plan seeks to
2 address.

3 SEC. 3. Section 85215 is added to the Water Code, to read:

4 85215. (a) By January 1, 2013, the council shall develop a
5 long-term finance plan to pay for the costs of implementing the
6 Delta Plan that includes all projects, programs, and related
7 administrative costs identified in the Delta Plan. The finance plan
8 shall be developed through an economic, scientific, and engineering
9 based, transparent, and open process. The council shall distribute
10 a draft plan for public review and comment at least six months
11 prior to the approval of the final long-term finance plan.

12 (b) The finance plan shall include, but not be limited to, all of
13 the following information:

14 (1) Annual expenditure plans for at least each of the next five
15 years for implementation of the Delta Plan.

16 (2) An estimate of all existing state and federal funds, including
17 General Fund moneys, special fund moneys, fees, and other sources
18 of revenue reasonably expected to be available to support
19 expenditures.

20 (3) An evaluation of existing programs and projects to determine
21 if funding could be redirected to the Delta Plan, including, but not
22 limited to, funding previously directed at the CALFED Bay Delta
23 Program.

24 (4) A definition of public and private benefits.

25 (5) An analysis and description of the basis for allocating
26 program and project costs among private and public entities.

27 (6) An enforceable mechanism that ensures that fees, contractual
28 payments, cost-share agreements, and contributions are expended
29 as intended, and not diverted to other purposes.

30 (c) The finance plan shall recognize and reflect the broad public
31 benefit to the state and nation of restoring and enhancing the Delta
32 ecosystem.

33 (d) The finance plan shall identify and evaluate, pursuant to the
34 beneficiary pays principle, the benefits to, and negative impacts
35 caused by, all entities, including, but not limited to, all of the
36 following:

37 (1) The public.

38 (2) Urban and agricultural water users ~~exporting water from the~~
39 ~~Delta and the Delta watershed~~ *diverting water from the Delta for*

1 *use outside of the Delta*, including, but not limited to, the state and
2 federal water contractors.

3 *(3) Urban and agricultural water users diverting water from*
4 *the Delta tributaries for use outside of the Delta watershed.*

5 ~~(3)~~

6 *(4) Urban and agricultural water users diverting water for use*
7 *within the Delta and the Delta watershed.*

8 ~~(4)~~

9 *(5) Delta interests benefitting from flood protection.*

10 ~~(5)~~

11 *(6) Delta recreational interests.*

12 ~~(6)~~

13 *(7) Dischargers into the Delta and the Delta watershed,*
14 *including, but not limited to, wastewater dischargers and sources*
15 *of invasive species.*

16 ~~(7)~~

17 *(8) Commercial fishing interests within and outside of the Delta.*

18 ~~(8)~~

19 *(9) Other interests with infrastructure or operations in the Delta,*
20 *including business and transportation entities.*

21 *(e) The finance plan shall recognize that mitigation costs for*
22 *projects included in the Delta Plan are the responsibility of the*
23 *project beneficiaries.*

24 ~~(e)~~

25 *(f) The finance plan shall allocate costs based on the beneficiary*
26 *pays principle and pursuant to the analysis required in subdivision*
27 *(d). Financing proposals to pay for public benefits or impacts shall*
28 *include, but not be limited to, new and existing state and federal*
29 *funding including proceeds from the sale of bonds. Financing*
30 *proposals to pay for private benefits or negative impacts shall*
31 *include, but not be limited to, new and existing fees, contractual*
32 *payments, and cost-share agreements. To the extent existing fees,*
33 *contractual payments, cost-share agreements, and other*
34 *contributions, support programs and projects included in the Delta*
35 *Plan, the finance plan developed by the council shall identify which*
36 *of these existing contributions are eligible to be credited against*
37 *future funding requirements. The council shall develop a baseline*
38 *for the purposes of determining credit.*

39 ~~(f)~~

1 (g) The council shall review the finance plan at least once every
2 five years and update the plan as the council deems appropriate.

3 ~~(g)~~

4 (h) The council shall not adopt new fees pursuant to this section
5 unless a statute is enacted that authorizes the council to adopt a
6 fee pursuant to this section.

7 SEC. 4. Section 85216 is added to the Water Code, to read:

8 85216. (a) Prior to the establishment or collection of a
9 long-term revenue source pursuant to Section 85215, the council
10 may seek to obtain early funding contributions from groups that
11 may benefit from the implementation of the Delta Plan, for
12 purposes of funding the council's planning and administrative
13 activities related to the preparation of the Delta Plan.

14 (b) The council shall track early funding contributions and shall
15 provide credit for those contributions against future funding
16 requirements.